

Christopher J. Reichman SBN 250485
PRATO & REICHMAN, APC
8555 Aero Drive, Suite 303
San Diego, CA 92123
Telephone: 619-683-7971
Email: chrisr@prato-reichman.com

Attorney for Plaintiff
PAUL SAPAN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

PAUL SAPAN,

Plaintiff,

vs.

CONSUMER CREDIT COUNSELING
FOUNDATION, INC., A Florida
Corporation,, ISHWINDER JUDGE, an
individual,

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES,
INCLUDING PUNITIVE
DAMAGES, INTEREST AND
ATTORNEY’S FEES, AND
FOR INJUNCTIVE RELIEF**

**Violation(s) of Telephone
Consumer
Protection Act of 1991
Trespass to Chattel
Unfair Business Practices**

COMES NOW Plaintiff PAUL SAPAN (hereinafter referred to as
“Plaintiff”) who alleges as follows:

JURISDICTIONAL ALLEGATIONS

1 1. Plaintiff is, and at all times herein mentioned was, a resident of the
2 County of Los Angeles, but has recently moved to the county of Orange, State of
3 California.
4

5 2. Defendant Consumer Credit Counseling Foundation, Inc. (“Consumer
6 Credit Counseling Foundation”) is, and at all times herein mentioned was, a
7 Florida Corporation, doing business in the County of Los Angeles, State of
8 California.
9

10 3. Defendant Ishwinder Judge, is, and at all times herein mentioned was,
11 doing business in the County of Los Angeles, State of California.
12

13 4. This case is filed pursuant to the Telephone Consumer Protection Act
14 of 1991, 47 U.S.C. §227 et. seq. The U.S. Supreme Court recently decided that
15 federal courts have federal question subject matter jurisdiction over such civil
16 actions under 28 U.S.C. §§ 1331 and 1441. *Mims v. Arrow Fin. Services, LLC*, --
17 U.S. --, 132 S.Ct. 740, 753 (2012). The state law claim herein arises out of a
18 common nucleus of operative facts and is subject to supplemental jurisdiction
19 pursuant to 28 U.S.C. § 1367.
20
21

22 5. At all times herein mentioned each defendant was the partner, agent
23 and employee of each co-defendant herein and was at all times acting within the
24 scope of such partnership, agency and employment and each defendant ratified the
25 conduct of each co-defendant herein.
26
27
28

FACTUAL SUMMARY

6. Defendants made six (6) live calls to PAUL SAPAN's home phone number (310-444-1999) wherein they tried to pitch legal services on the following dates and times and using the following Caller ID ("CID") numbers:

- August 9, 2012 at 2:27pm, CID 949-502-0318
- August 10, 2012 at 11:52am, CID 949-502-0318
- August 28, 2012 at 3:50pm, CID 949-502-0318
- September 5, 2012 at 3:41pm, CID 949-502-0318
- September 6, 2012 at 3:18pm, CID 949-502-0318
- September 7, 2012 at 11:24 am, CID 949-502-0318

7. Mr. Sapan's home phone has been listed on the federal "Do Not Call" registry maintained by the Federal Trade Commission from December 23, 2007 to the present.

8. While each of the calls complained of above used the Caller ID number, they did not transmit Caller ID name information as required by law. 47 C.F.R. § 64.1601(e).

9. On August 9, 2012 at 2:27 pm Defendants called Mr. Sapan from CID 949-502-0318.

10. Mr. Sapan answered the above mention called made by Defendants, but no one comes on the line.

11. On August 10, 2012 at 11:52 am, Defendants called Mr. Sapan from CID 949-502-0318.

1 12. Mr. Sapan did not answer.

2 13. On August 28, 2012 at 3:50 pm, Defendants called Mr. Sapan from
3 CID 949-502-0318.
4

5 14. On September 5, 2012 at 3:41 pm Defendants called Mr. Sapan from
6 CID 949-502-0318.
7

8 15. Mr. Sapan answered the above mention called made by Defendants,
9 but no one comes on the line.
10

11 16. On September 6, 2012 at 3:18 pm Defendant called Mr. Sapan from
12 CID 949-502-0318.
13

14 17. Mr. Sapan did not answer.

15 18. On September 7, 2012 at 11:24 am Defendant called Mr. Sapan from
16 CID 949-502-0318.
17

18 19. During the call, “Rick” of Consumer Credit Counseling Foundation
19 attempted to pitch Mr. Sapan credit remediation services.
20

21 20. Mr. Sapan feigned interest to find out who was behind the illegal
22 calls.
23

24 21. “Rick” transferred the call to “Helen” of the Consumer Credit
25 Counseling Foundations, where she continued to pitch Mr. Sapan credit
26 remediation services.
27
28

1 22. Now that Mr. Sapan knew who was calling him, he told Helen to Do-
2 Not-Call and that he was not interested.

3 23. All six (6) alleged calls made by Defendants to Mr. Sapan used the
4 same CID number 949-502-0318.

5 24. Mr. Sapan alleges on information belief that the calls transmitted to
6 him that he did not answer were made by Defendants in order to pitch him the
7 same credit remediation services they pitched in the calls he did answer.
8

9 25. Defendant Consumer Credit Counseling Foundation is listed as an
10 active Florida Corporation.
11

12 26. A true and correct copy of Defendant Consumer Credit Counseling
13 Foundation's business filings with the Florida Secretary of State is attached hereto
14 as Exhibit 1 and is incorporated herein as if set forth verbatim.
15

16 27. While Defendant Consumer Credit Counseling Foundation is
17 registered as a Florida Corporation, it is located in California with its principle
18 business address is listed at 2150 Portola Avenue, Suite D186, Livermore, CA
19 94551.
20

21 28. A true and correct copy of Defendant Consumer Credit Counseling
22 Foundation's business filings with the California Secretary of State containing the
23 principal Defendant's principal business address is attached hereto as Exhibit 2 and
24 is incorporated herein as if set forth verbatim.
25
26
27
28

1 29. The Florida Secretary of State lists Defendant Ishwander Judge as the
2 President, Secretary, and Treasurer of Defendant Consumer Credit Counseling
3 Foundation.
4

5 30. Defendant Ishwinder Judge is, and at all times herein mentioned is,
6 the owner of Defendant Consumer Credit Counseling Foundation.
7

8 31. After conducting a thorough examination of Defendant Consumer
9 Credit Counseling Foundation's tax records, there is no indication that any
10 employees work for the company other than its owner, Ishwander Judge.
11

12 32. Defendant Ishwinder Judge is fully liable for the calls here, because
13 Defendant Consumer Credit Counseling Foundation is a very small company with
14 no other managers nor employees.
15

16 33. Plaintiff alleges on information and belief that Defendant Ishwinder
17 Judge made the violative calls, ordered them made, knew the calls described above
18 were being made and did nothing, or was willfully and recklessly ignorant of the
19 fact his company was making the calls described above.
20
21

22 34. Mr. Sapan has been harmed by the junk calls complained of herein by
23 the direct waste of his time during the calls themselves, the indirect waste of time
24 in having to break from other important tasks and spend time catching up after
25 these junk calls, the waste of telephone service which he and not Defendants must
26
27
28

1 pay for, the costs of having to pursue legal remedies, and in the aggravation and
2 consequent health effects of stress these illegal intrusions have caused.

3
4
5 **FIRST CAUSE OF ACTION**

6 [TCPA Do Not Call List Violations – For all six (6) calls]

7 35. Plaintiff realleges all paragraphs above and incorporates them herein
8 by reference.

9
10 36. Plaintiff is bringing this action pursuant to the provisions of the
11 Telephone Consumer Protection Act of 1991 (47 U.S.C. §227 and 47 C.F.R.
12 §64.1200 – “TCPA”).

13
14 37. Subdivision (c) (2) of Section 64.1200 of Title 47 of the Code of
15 Federal Regulations makes it unlawful for any person to “initiate any telephone
16 solicitation” to “A residential telephone subscriber who has registered his or her
17 telephone number on the national do-not-call registry of persons who do not wish
18 to receive telephone solicitations”.

19
20
21 38. At all times relevant to this complaint, Plaintiff had registered his
22 residential telephone number on the national do-not-call registry maintained by the
23 U.S. Government.

24
25 39. Defendants have called Plaintiff’s residential telephone line for
26 solicitation purposes during the statutory period of the last 4 years, pursuant to 28
27 U.S.C. § 1658. These calls are the only calls known to Plaintiff at this time and
28

1 Plaintiff states on information and belief, without yet having the aid of full
2 discovery, that it is quite likely that Defendant has made many more violative calls
3 to Plaintiff's residential telephone line. These calls were not made in error, nor did
4 Defendant have express permission from Plaintiff to call, nor did Defendant have a
5 personal relationship with Plaintiff. 37 C.F.R. § 64.1200 (c) (i), (ii), & (iii).
6

7
8 40. Subdivision (c)(5) of section 227 of title 47 of the United States Code
9 permits a private right of action in state court for violations the national do-not-call
10 registry rules promulgated thereunder. Plaintiff may obtain relief in the form of
11 injunctive relief, or Plaintiff may recover \$500.00 for each violation, or both. If
12 the court finds that defendants' violations were willful or knowing, it may, in its
13 discretion, award up to three times that amount.
14
15

16
17
18 **SECOND CAUSE OF ACTION**
19 [Trespass to Chattel- For all six (6) calls]

20 41. Plaintiff realleges all paragraphs above and incorporates them herein
21 by reference.

22 42. The conduct by defendants complained of herein, namely illegally
23 calling Plaintiff's phone, constitutes an electronic trespass to chattel.
24

25 43. At no time did Plaintiff consent to this trespass.
26

27 44. As a proximate result of these intrusions, Plaintiff suffered damage in
28 an amount according to proof, but no less than 10% of his monthly phone bills in

1 July and August of 2013 since Defendants calls constituted 10% or more of the
2 total calls to his phone at the height of their junk calling campaign.

3 45. In making the illegal calls described above, defendants were guilty of
4 oppression and malice, in that defendants made said calls with the intent to vex,
5 injure, or annoy Plaintiff or with a willful and conscious disregard of Plaintiff's
6 rights. Plaintiff therefore seeks an award of punitive damages.
7
8

9
10
11 **THIRD CAUSE OF ACTION**

12 [Engaging in Unfair Business Practices- For all six (6) calls]

13 46. Plaintiff realleges all paragraphs above and incorporates them herein
14 by reference.

15 47. Because these telephone calls violate federal statutes, they are
16 unlawful business practices within the meaning of section 17200 of the Business
17 and Professions Code.
18

19 48. As a proximate result of these intrusions, Plaintiff suffered damage in
20 an amount according to proof, but no less than 6% of his monthly phone bills in
21 August and September of 2012 since Defendants calls constituted 6% or more of
22 the total calls to his phone during this time.
23

24 49. Section 17203 of the Business and Professions Code entitles Plaintiff
25 to an injunction enjoining defendants from engaging in unfair or unlawful business
26 practices.
27
28

1 WHEREFORE Plaintiff prays for judgment against defendants, and each of
2 them, as follows:

3
4 On the FIRST CAUSE OF ACTION:

- 5 1. For an award of \$500.00 for each violation of 47 C.F.R. §64.1200 (c)
6 (2);
7 2. For an award of \$1,500.00 for each such violation found to have been
8 willful;

9 On the SECOND CAUSE OF ACTION:

- 10 3. For compensatory damages according to proof;
11 4. For punitive damages;

12 On the THIRD CAUSE OF ACTION:

- 13 5. For preliminary and permanent injunctions, enjoining Defendants, and
14 each of them, from engaging in unfair or unlawful business practices
15 pursuant to section 17203 of the Business and Professions Code;

16 On ALL CAUSES OF ACTION:

- 17 6. For attorney's fees pursuant to California Code of Civil Procedure §
18 1021.5.
19 7. For costs of suit herein incurred; and
20 8. For such further relief as the Court deems proper.

21
22 DATED: November 18, 2015

PRATO & REICHMAN, APC

23
24
25 /s/Christopher J. Reichman, Esq.
26 By: Christopher J. Reichman, Esq.
27 **Prato & Reichman, APC**
28 Attorneys for Plaintiff
PAUL SAPAN